

Washington University Journal of Law & Policy

Volume 62 *Celebrating 150 Years of Women at WashULaw*

2020

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Recommended Citation

Elizabeth J. Hubertz, *Earth Mothers, Soy Boys, and Cool Dudes: Practicing Law While Protecting the Environment*, 62 WASH. U. J. L. & POL'Y 087 (2020),
https://openscholarship.wustl.edu/law_journal_law_policy/vol62/iss1/13

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EARTH MOTHERS, SOY BOYS, AND COOL DUDES: PRACTICING LAW WHILE PROTECTING THE ENVIRONMENT

Elizabeth J. Hubertz*

INTRODUCTION

In the 2019-20 academic year, Washington University School of Law celebrates 150 years of admitting women. Phoebe Couzins and Lemma Barkeloo enrolled in 1869,¹ four years before *Bradwell v. Illinois*, in which U.S. Supreme Court Justice Joseph P. Bradley explained that “[t]he natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life,” including, of course, the practice of law.²

Times have changed since Justice Bradley’s day, although in the 1990s, when I started practicing law in rural Alabama, I still encountered a certain level of surprise when I showed up for a hearing or a client meeting. Local court personnel explained why they were staring: “We don’t get many lady lawyers around here.” Or, on occasion, when I stood behind counsel table at a docket call, wearing my blue suit, holding my red rope files, the (male) judges would ask me (but not my male opposing counsel) if I was a lawyer.³ Despite such initial skepticism, I was always able to do my job—once I convinced the judges I had a valid law license.

Most female lawyers of my generation have similar stories of being mistaken for a secretary or a client, or in some other way receiving the signal that they are perceived not to belong with the other (male) members of the bar. Research tends to bear this out, as “practicing law appears to be highly

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1. Karen Tokarz, *A Tribute to the Nation’s First Women Law Students*, 68 WASH. U. L.Q. 89, 89 (1990); see also Audrey Wolfson Latourette, *Sex Discrimination in the Legal Profession: Historical and Contemporary Perspectives*, 39 VAL. L. REV. 859, 875 (2005) (discussing Barkeloo’s attendance at Washington University).

2. *Bradwell v. State*, 83 U.S. 130, 141 (1873) (Bradley, J., concurring).

3. I often wondered what the judges *did* think I was doing there if I wasn’t a lawyer, but I lacked the courage to ask them. I’m not sure I would have liked the answer if I had.

gendered,” especially in its most elite settings.⁴ While fifty percent of law students are women, and more than a third of U.S. lawyers are women, only about twenty percent of partners at large firms (those with more than more than six hundred lawyers) are women.⁵

But is there anything unique about practicing *environmental* law as a woman? There is, although not in terms of the number of women in the field.⁶ Instead, environmentalism itself—the recognition that the development of natural resources can have adverse consequences for human and other life—is gendered across several dimensions.⁷ The idea that nature and the environment are female is deeply embedded in contemporary culture and the popular imagination. We speak of “Mother Nature,” for example, and green organizations urge us to “Love your Mother [Earth].”⁸ In consumer research, surveys show that both men and women view pro-environmental behavior and attitudes as feminine or reflecting what are

4. Fiona Kay & Elizabeth Gorman, *Women in the Legal Profession*, 4 ANN. REV. L. & SOC. SCI. 299, 305 (2008).

5. Jacqueline Bell, *Women See Another Year of Slow Gains At Law Firms*, LAW360 (July 23, 2017), <https://www.law360.com/articles/946586>. The reasons for this disparity are hotly disputed, to say the least.

6. Although there is substantial research on the settings in which women practice law (e.g., firm size, government or private sector, and geographical location), and on their places in the legal hierarchy (e.g., associate, nonequity partner, equity partner), there is less available on women’s presence in particular legal specialties. The American Bar Association Commission on Women in the Profession’s annual statistical survey, the National Association of Women Lawyers’s annual survey report, the Law360 Glass Ceiling Survey, and the 2019 National Association of Law Placement Report on Diversity, do not contain this data. See AM. BAR ASS’N COMM’N ON WOMEN IN THE PROFESSION, A CURRENT GLANCE AT WOMEN IN THE LAW (2018), <http://www.americanbar.org/content/dam/aba/administrative/women/a-current-glance-at-women-in-the-law-jan-2018.pdf> [<https://perma.cc/5TRP-UZXA>]; DESTINY PEERY, NAT’L ASS’N OF WOMEN LAWYERS, 2019 SURVEY REPORT ON THE PROMOTION AND RETENTION OF WOMEN IN LAW FIRMS (2019); Cristina Violante & Jacqueline Bell, *Law360’s Glass Ceiling Report, By the Numbers*, LAW360 (May 28, 2018, 9:02 PM EDT), <http://www.law360.com/articles/1047285/law360-s-glass-ceiling-report-by-the-numbers->; NAT’L ASS’N FOR LAW PLACEMENT, 2019 REPORT ON DIVERSITY IN U.S. LAW FIRMS (2019), https://www.nalp.org/uploads/2019_DiversityReport.pdf [<https://perma.cc/X2KA-7DBU>]. What research there is on this specific question tends to show that a lawyer’s area of specialization is not gender-dependent for the most part. Within the corporate law firm world, “[g]ender imbalance across specialty area appears to be low.” Kay & Gorman, *supra* note 4, at 303.

7. This is a broad but standard definition taken from a commonly used environmental law textbook. ROBERT L. GLICKMAN ET AL., ENVIRONMENTAL PROTECTION: LAW AND POLICY 3 (6th ed. 2019).

8. See Catherine Roach, *Loving Your Mother: On the Woman-Nature Relation*, ECOLOGICAL FEMINISM, Spring 1991, at 46, 48-49.

perceived to be feminine values.⁹ Given this attitude toward environmental risk, it is not surprising that women are more likely than men to adopt sustainable, eco-friendly practices.¹⁰ Men “litter more, recycle less, have a larger overall carbon footprint and feel less guilty about living a nongreen lifestyle.”¹¹

As a public-interest environmental lawyer, I watch these ideas play out politically and culturally—in city council meetings, stakeholder groups, and legislatures, in courtrooms and online. They form part of the milieu in which my colleagues and I move. In this essay, I take a brief look at three interrelated ideas about environmentalism and gender: the nature-culture binary, the relationship of meat to masculinity, and perceptions of the risks and threats of climate change.

I. EARTH MOTHERS

In the language of cultural theory, the environment, environmentalism, and pro-environmental values are coded as feminine. Western thought has long postulated a female nature in opposition to a masculine culture or civilization.¹² Nature is primitive, emotional, and chaotic, like the stereotypical woman.¹³ Human culture is not part of nature, but outside of it and opposed to it.¹⁴ Nature and culture are value dualisms, or binaries, meaning that nature and culture are in a hierarchical relationship in which

9. Aaron R. Brough, James E.B. Wilkie, Jingjing Ma, Mathew S. Isaac & David Gal, *Is Eco-Friendly Unmanly?: The Green-Feminine Stereotype and Its Effect on Sustainable Consumption*, 43 J. CONSUMER RES. 567, 570 (2016).

10. *Id.* at 568.

11. *Id.* at 567. These associations are not new. In the late 1800s into the early 1900s, proponents of the Hetch Hetchy dam in Yosemite National Park, characterized male conservationists like Sierra Club founder John Muir, who opposed the dam, as “effeminate and unmanly.” Janet K. Swim, Theresa K. Vescio, Julia L. Dahl & Stephanie J. Zawadzki, *Gendered Discourse About Climate Change Policies*, 48 GLOBAL ENVTL. CHANGE 216, 217 (2018).

12. See, e.g., CAROLYN MERCHANT, *THE DEATH OF NATURE: WOMEN, ECOLOGY, AND THE SCIENTIFIC REVOLUTION 1-40* (1980) (describing the cultural history of nature as female). As one might expect, there are also many criticisms of the nature/culture binary from a feminist point of view. See Roach, *supra* note 8, at 47.

13. See generally MERCHANT, *supra* note 12, at 127-44 (categorizing nature as chaos and culture or the machine as order).

14. See VAL PLUMWOOD, *FEMINISM AND THE MASTERY OF NATURE 5-6* (1993) (discussing how the concepts of culture and nature can conflict).

masculine culture dominates feminine nature and nature exists as an object to be used by culture.¹⁵

Some pro-environmental schools of thought have embraced the duality. Ecofeminism, in its more essentialist forms, embraces this dichotomy and “celebrates an era in prehistory when nature was symbolized by pregnant female figures . . . and in which women were held in high esteem as bringers forth of life,”¹⁶ linking women’s biology and perceived feminine characteristics like nurturance and compassion to a pro-environmentalist ethic of care for the earth.¹⁷ Other feminist critiques have identified “a close connection between women and nature based on a shared history of oppression by patriarchal institutions.”¹⁸ Materialist ecofeminists, for example, use the association of women with nature and men with culture as a means of critiquing the patriarchal power structures that underlie culture, technology, and science.¹⁹

Masculinities theory, the cultural-studies cousin of feminism, looks at the other side of the duality, criticizing the relationship among concepts of maleness, culture, and dominance. While recognizing that there are many ways of being a man, “hegemonic masculinity” is understood as the pattern or practice . . . that allowed men’s dominance over women to continue” and “embodie[s] the currently most honored way of being a man.”²⁰ It is what people mean when they talk about someone being a “real man.” A type more focused on the environment is “industrial masculinit[y]” which sees “nature as dead,” meaning valueless except for resource extraction, “man as the

15. *Id.* at 4 (“[Nature] is a resource empty of its own purposes or meanings, and hence available to be annexed for the purposes of those supposedly identified with reason or intellect, and to be conceived and moulded in relation to these purposes.”).

16. CAROLYN MERCHANT, *RADICAL ECOLOGIES* 191 (2d ed. 2005).

17. Valerie Padilla Carroll, *Introduction* to *ECOFEMINISM IN DIALOGUE* 1, 3-4 (Douglas A. Vakoch & Sam Mickey eds., 2017) (describing types of ecofeminism).

18. DIANNE ROCHELEAU, BARBARA THOMAS-SLAYTER & ESTHER WANGARI, *FEMINIST POLITICAL ECOLOGY: GLOBAL ISSUES AND LOCAL EXPERIENCES* 3 (1996).

19. See Mary Mellor, *Feminism and Environmental Ethics: A Materialist Perspective*, 5 *ETHICS & ENV'T* 107, 111 (2000).

20. R.W. Connell & James W. Messerschmidt, *Hegemonic Masculinity: Rethinking the Concept*, 19 *GENDER & SOC.* 829, 832 (2005). See generally Nancy E. Dowd, *Masculinities and Feminist Legal Theory*, 23 *WIS. J.L. GENDER & SOC'Y* 201, 211-222 (2008) (providing a descriptive overview of the field as it relates to legal scholarship).

rightful dominator, and engineering as the method of creating wealth for all humans.”²¹

If I, as an environmental lawyer, were to attend a typical land-use hearing and talk about “hegemonic masculinity,” I imagine most people in attendance would stare at me in bewilderment and possibly burst out laughing. But at the same time, the real estate developers at these meetings argue in these cultural terms as a matter of course, insisting that land without manufactured or built structures on it is not being used, that the best possible use for land is to have something built on it that will make money. When my clients try to persuade decisionmakers of the value of ecology, biodiversity, or open space, they are swimming against the stream of a deeply embedded set of ideas. I can see industrial masculinity at work in every cost-benefit analysis in which the profit from commercial use of a space, or the savings if an operation remains unregulated, weighs against the intangible benefit of the natural world. The immediate topic of discussion may be the location of yet another strip mall, but nature, culture, and gender are apparent as subtext.

The nature-culture binary has other practical implications for environmentalism and environmental law, especially where climate change is concerned. If *eco-friendly* and *sustainable* are viewed as feminine,²² then by contrast, things that place strain on the environment or ecosystems are considered masculine. One example is coal, and another is meat, discussed below.²³ Laws attempting to regulate these domains are symbolically threatening, regardless of their actual substance. In addition, white men are less likely than women to perceive environmental health risks as dangerous.²⁴ If environmental risks are not serious, then there is no need to

21. Martin Hultman, *Exploring Industrial-, Ecological-, and Ecomodern Masculinity*, in ROUTLEDGE HANDBOOK OF GENDER AND ENVIRONMENT 239, 244 (Sherilyn MacGregor ed., 1st ed. 2017). I hope it goes without saying that not all men reject environmental values and not all women adopt them, but men who do not follow the “currently most honored way of being a man” may find themselves belittled and insulted for failing to choose this path.

22. Brough et al., *supra* note 9, at 568-69.

23. Matthew B. Ruby & Steven J. Heine, *Meat, Morals and Masculinity*, 56 APPETITE 447, 449 (2011) (discussing that vegetarian men are perceived as less masculine than omnivores); Jemál Nath, *A Qualitative Investigation of Alternative Food and Masculinities*, 47 J. SOC. 261 (2011); see Shannon Elizabeth Bell & Yvonne A. Braun, *Coal Identity and the Gendering of Environmental Justice Activism in Central Appalachia*, 24 GENDER & SOC. 794, 798-800 (2010) (discussing coal and masculinity).

24. James Flynn, Paul Slovic, & C.K. Mertz, *Gender, Race and Perception of Environmental Health Risks*, 14 RISK ANALYSIS 1101, 1106 (1994).

enact laws, deny permits, change one's lifestyle, or forego financial investment in order to manage them. This, too, has its roots in the nature-culture hierarchy with real consequences for a warming world.

II. SOY BOYS

Meat-eating is masculine, and "the more meat an individual eats, the more masculine the individual will be perceived by others."²⁵ Research has indicated that there is a hierarchy of meat and meat products, with red meats like hamburger and steak at the apex of manliness.²⁶ Meat-related activities like hunting and barbequing are also considered to be masculine.²⁷ One small study showed that there is social pressure on men to eat meat, even if they don't want to or shouldn't for health reasons.²⁸

But if meat is masculine, then reducing meat consumption is feminine, and that is not viewed as a good thing. Men who are vegetarians or vegans are girly, sissies, or, the contemporary taunt, "soy boys." According to the top definition at Urban Dictionary.com, a "soy boy" is "a male who completely and utterly lack[s] all necessary masculine qualities." It is a "pathetic state . . . achieved by an over-indulgence of emasculating products and ideologies."²⁹ Other definitions display the environmental connection more clearly: a soy boy is "likely a vegetarian or vegan" and may "own a Toyota Prius."³⁰

This gendered hierarchy of meat has a long history, and a healthy dollop of racism as well. Authors Gambert and Linné find a "plant-based diet" associated with femininity and thus with weakness. Here is American neurologist James Leonard Corning writing in 1884: "Thus flesh-eating

25. Kristen C. Sumpter, *Masculinity and Meat Consumption: An Analysis Through the Theoretical Lens of Hegemonic Masculinity and Alternative Masculinity Theories*, 9 SOC. COMPASS 104 (2015).

26. See Paul Rozin, Julia M. Holmes, Myles S. Faith & Brian Wamsik, *Is Meat Male? A Quantitative Multimethod Framework to Establish Metaphoric Relationships*, 39 J. CONSUMER RES. 629, 636 (2012).

27. Nath, *supra* note 23, at 267.

28. Emma Roe & Paul Hurley, *Man Food: Exploring Men's Opportunities for "Becoming an Ecological Citizen" Through Protein-Related Food Practices*, U. SOUTHAMPTON (May 8, 2019), http://generic.wordpress.soton.ac.uk/man-food/wp-content/uploads/sites/298/2019/05/Man-Food-2-Page-Summary_ER_A4_PH.pdf [<https://perma.cc/N5KB-8TLB>].

29. Sandman Aktual, *Soy Boy*, URB. DICTIONARY (June 22, 2017), <https://www.urbandictionary.com/define.php?term=Soy%20Boy> [<https://perma.cc/2MHT-ZZAX>].

30. Max Suba, *Soy Boy*, URB. DICTIONARY (Feb. 26, 2018), <https://www.urbandictionary.com/author.php?author=Max%20Suba> [<https://perma.cc/X965-N7MJ>].

nations have ever been more aggressive than those peoples who diet is largely or exclusively vegetable. The effeminate rice-eaters India and China have again and again yielded to the superior moral courage of an infinitely smaller number of meat-eating Englishmen.”³¹ *Masculine* is strong, healthy, and superior; a feminine “soy boy” is none of those things.³²

Environmental concerns about climate change lead to fears of a meatless, weak, and feminized future, which have had an effect on environmental lawmaking. In 2019, Representative Alexandria Ocasio-Cortez and Senator Edward J. Markey unveiled the proposal known as the Green New Deal.³³ The House resolution described the consequences of a worldwide two-degree-Celsius temperature increase—mass migration, wildfires, financial losses in the billions of dollars—and urged the creation of a government program to reduce greenhouse gases (GHGs) and ameliorate the worst effects of climate change in an equitable manner.³⁴ One of the resolution’s opening section’s fourteen points was a call for “working collaboratively with farmers and ranchers . . . to remove . . . greenhouse gas emissions from the agricultural sector.”³⁵

There is plenty to argue about in the Green New Deal proposal, and many have weighed in on both sides. But it is undisputed that contemporary meat production—and *production* is the right word for these factory farms—is environmentally costly. It takes more energy and water to make steak than it does to grow plant foods.³⁶ The side effects of large-scale animal agriculture are also environmentally destructive, as the millions of tons of animal waste generated are disposed of, entering rivers and streams

31. Iselin Gambert & Tobias Linné, *From Rice Eaters to Soy Boys: Race, Gender, and Tropes of “Plant Food Masculinity”*, 7 *ANIMAL STUD.* J. 129, 134-35 (2018) (discussing the perception of meat eating as masculine since the 1800s). Anyone familiar with cultural theory will not be surprised to learn that race and gender intertwine in these hierarchical binaries, but I focus here on the gender aspect.

32. Rozin et al., *supra* note 26, at 630-32 (discussing the history of this association).

33. H.R. 109, 116th Cong. (2019) (recognizing the duty of the Federal Government to create a Green New Deal); see also Dino Grandoni, *The Energy 202: Ocasio-Cortez, Markey unveil Green New Deal with Backing of Four Presidential Candidates*, WASH. POST (Feb. 7, 2019), <https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2019/02/07/the-energy-202-ocasio-cortez-markey-unveil-green-new-deal-with-backing-of-four-presidential-candidates/5c5b37cf1b326b66eb098641/> [https://perma.cc/85AU-G586].

34. H.R. 109.

35. *Id.* § (2)(G).

36. Michael E. Webber, *More Efficient Foods, Less Waste*, SCIENTIFIC AMERICAN (Dec. 29, 2011), <http://www.scientificamerican.com/article/webber-more-efficient-foods-less-waste> [https://perma.cc/AF96-KTUD].

and causing “dead zones” where no aquatic life can be found,³⁷ and contaminating the water with *E. coli* and other bacteria.³⁸ Finally, the production of meat—especially the most masculine red meats—is also a contributor to climate change, although not the largest by any means. Worldwide, livestock contribute 14.5% of all anthropogenic GHG emissions.³⁹ Forty-one percent of those emissions are attributed to beef production.⁴⁰

Eating less meat, then, would benefit the environment and would have an impact on climate change, even if meat-eating is not the largest driver of global temperature increase. It is a small part of the Green New Deal. But the popular opposition seized on the “farmers and ranchers” language, characterizing the plan as “coming for your hamburgers.”⁴¹ Utah congressman Rob Bishop ate a hamburger at a press opportunity, stating that if the Green New Deal became law, “this would be outlawed.”⁴² Liberty University president Jerry Falwell, Jr., said during a panel discussion at the Conservative Political Action Conference: “You just let Alexandria [Ocasio-] Cortez show up at my house and try to take my cows away.” His fellow panelist Donald Trump Jr. replied, “I love cows, Jerry. They're delicious.”⁴³

Fox News pundit Tucker Carlson made the connection more explicit when he described a male supporter of the Green New Deal: “[He] is what every man would be if feminists ever achieved absolute power in this

37. Georgina Gustin, *Algae Blooms Fed by Farm Flooding Add to Midwest's Climate Woes*, INSIDE CLIMATE NEWS (June 26, 2019), <https://insideclimatenews.org/news/26062019/midwest-flooding-algae-blooms-dead-zone-climate-change-fertilizer-livestock-gulf-mexico-lake-erie> [<https://perma.cc/7TN7-Q5Q7>].

38. See Charles Duhigg, *Health Ills Abound as Farm Runoff Fouls Wells*, N.Y. TIMES (Sept. 17, 2009), <https://www.nytimes.com/2009/09/18/us/18dairy.html> [<https://perma.cc/MH2W-74Y7>] (discussing the contamination of water in wells).

39. FOOD AND AGRIC. ORG. OF THE UNITED NATIONS, TACKLING CLIMATE CHANGE THROUGH LIVESTOCK: A GLOBAL ASSESSMENT OF EMISSIONS AND MITIGATION OPPORTUNITIES 15 (2013).

40. *Id.* at 16. In contrast, pork production accounts for nine percent and chicken for eight percent. *Id.*

41. Emily Atkin, *The Potency of Republicans' Hamburger Lie*, NEW REPUBLIC (Mar. 4, 2019), <https://newrepublic.com/article/153187/potency-republicans-hamburger-lie> [<https://perma.cc/2H8H-DKM6>] (listing sources).

42. Breitbart News, *Rep. Bishop Eats a Hamburger, "If the Green New Deal Passes This Will Be Outlawed,"* YOUTUBE (Mar. 1, 2019), <https://youtu.be/K9MrwVGm-w> [<https://perma.cc/5P47-4YMS>].

43. “My Pronouns are USA” and More Actual Quotes from CPAC 2019, THE WEEK (Mar. 1, 2019), <https://theweek.com/speedreads/826663/pronouns-are-usa-more-actual-quotes-from-cpac-2019> [<https://perma.cc/7GDL-JAD5>].

country: apologetic, bespectacled and deeply, deeply concerned about global warming, and the patriarchal systems that cause it.”⁴⁴ But the best example comes from President Trump ridiculing the Green New Deal on Twitter: “I think it is very important for the Democrats to press forward with their Green New Deal. It would be great for the so-called ‘Carbon Footprint’ to permanently eliminate all Planes, Cars, Cows, Oil, Gas & the Military – even if no other country would do the same. Brilliant!”⁴⁵ One almost couldn’t ask for a better list of industrial masculine tropes. Not only does the list contain meat, but also destructive resource extraction and dirty fuels, large powerful machines, weapons, and the fear of being dominated. Nobody calls Donald J. Trump a soy boy!

III. COOL DUDES

Fear of a hamburger-free future may be one obstacle standing in the way of meeting the challenge of global climate change, but it is not the only one. For decades, social scientists have known of a gender gap in the way that men and women perceive risk. Men are less likely than women to perceive environmental health risks as a threat.⁴⁶ Men, and in particular white men, who have been the focus of most of the research,⁴⁷ are more likely to agree that “future generations can take care of themselves” when it comes to dealing with the consequences of today’s technology, and to disagree that “technological development is destroying nature.”⁴⁸ White men are less likely to see the harm in environmental pollution and nuclear power.⁴⁹ More recent studies confirm that white men in the United States

44. William Cummings, *Tucker Carlson Says Ocasio-Cortez is a “Moron” Who “Never Even Raised Children,”* USA TODAY (Apr. 2, 2019, 12:48 PM), <https://www.usatoday.com/story/news/politics/2019/04/02/tucker-carlson-goes-after-ocasio-cortez-chris-hayes-monologue/3340896002/> [https://perma.cc/65BH-8EZ9].

45. Donald J. Trump (@realDonaldTrump), TWITTER, (Feb. 9, 2019, 3:21 PM), <https://twitter.com/realdonaldtrump/status/1094375749279248385?lang=en> [https://perma.cc/LF2Z-TA2K] (nonstandard capitalization and punctuation in original).

46. Flynn et al., *supra* note 24, at 1104.

47. In addition to gender, race also plays an important role in attitudes toward climate change, as does ideology. Conservative white males are the prototypical “cool dudes.” Aaron McCright & Riley E. Dunlap, *Cool Dudes: The Denial of Climate Change Among Conservative White Males in the United States*, 21 GLOBAL ENVTL. CHANGE 1163 (2012). However, the authors note that a gender gap regardless of race is also present. *Id.* at 1169. That is my focus here.

48. Flynn et al., *supra* note 24, at 1106.

49. *Id.*

are more likely to downplay the threat of climate change and more likely to claim that climate change is not occurring than either women or nonwhite men.⁵⁰

Climate change is, of course, occurring, and the scientific consensus is very strong.⁵¹ So why do McCright & Dunlap's "cool dudes" fail to acknowledge the validity of the science?⁵² Earlier writers had theorized that perhaps the gap was due to a lack of information about the risks or due to women's caregiving roles,⁵³ but neither fully explained the difference. Social scientists have turned to theories of cognition to explain why this might be so.

One theory is known as identity-protective cognition, which draws from the cultural theory of risk.⁵⁴ Differing perceptions of risk are attributable to a variance in cultural worldviews, such as differing visions of how society should be organized.⁵⁵ People are "psychologically disposed to believe that behavior they (and their peers) find honorable is socially beneficial and behavior they find base is socially detrimental."⁵⁶ In other words, we fear and dislike the things that defy our cultural norms and expectations.⁵⁷

The cultural worldview most likely to disregard environmental threats combines hierarchy—the idea that resources should be distributed according to status and that those who have the most money and power deserve to have them—with individualism, which "regards nature as a cornucopia" to be used in accordance with the needs of commerce and

50. Aaron McCright & Riley E. Dunlap, *Cool Dudes: The Denial of Climate Change Among Conservative White Males in the United States*, 21 GLOBAL ENVTL CHANGE 1163 (2012). *Id.* at 1169.

51. John Cook et al., *Consensus on Consensus: A Synthesis of Consensus Estimates on Human-Caused Global Warming*, No. 048002, 11 ENVTL. RES. LETTERS 1 (2016), <https://iopscience.iop.org/article/10.1088/1748-9326/11/4/048002/pdf> [<https://perma.cc/6R4N-8ZKW>].

52. *Id.* at 6. The terms used to refer to each position are hotly contested. See ANDREW J. HOFFMAN, HOW CULTURE SHAPES THE CLIMATE CHANGE DEBATE 94 n.28 (2016) (discussing nomenclature).

53. Dan. M. Kahan, Donald Braman, John Gastil, Paul Slovic, and C.K. Mertz, *Culture and Identity-Protective Cognition: Explaining the White-Male Effect in Risk Perception*, 4 J. EMPIRICAL LEGAL STUD. 465, 466 (2007) [hereinafter Kahan 2007].

54. *Id.*

55. *Id.*

56. Dan M. Kahan, Hank Jenkins-Smith & Donald Braman, *Cultural Cognition of Scientific Consensus*, 1 J. RISK RES. 1, 2 (2010).

57. Kahan 2007, *supra* note 53, at 468. The description of these cultural worldviews has its origins in MARY DOUGLAS & AARON WILDAVSKY, *RISK & CULTURE: AN ESSAY ON THE SELECTION OF TECHNICAL AND ENVIRONMENTAL DANGERS* (1982).

market-forces.⁵⁸ As Kahan et al. explain: “Those who are more individualistic predictably dismiss claims of environmental risk as specious, in line with their commitment to the autonomy of markets and other private orderings. So do relatively hierarchical persons, who perceive assertions of environmental catastrophe as threatening the competence of social and governmental elites.”⁵⁹ To put it another way, people who benefit from the existing social and economic hierarchies, and who see environmental risks as a challenge to those hierarchies—the “cool dudes” of McCright & Dunlap’s article—are more likely to downplay environmental risks, including climate change.⁶⁰

It is not too hard to hear echoes of the nature-culture binary at work in the cultural worldviews described here. Nature and the environment are weaker and less valuable than technology and culture and should be dominated and used. Taking climate change seriously by changing one’s behavior upends the hierarchy by placing limits on environmental domination and use and by suggesting that the environment is worthy of consideration and even deference. Thus, while risk analysts and gender theorists may make uncomfortable bedfellows, they share an insight, whether it is called “hegemonic masculinity” or “cultural cognition.” A person who believes that nature and the environment are the opposite of everything they stand for will fight to make sure nature and the environment do not come out on top.

My environmental practice does not usually involve debate over the finer points of climate change theory or grand plans on the scale of the Green New Deal. In my part of the Midwest, where climate change promises increased rain and flooding,⁶¹ we face much more mundane questions. Is it really a good idea to build an entertainment complex in a zone that is increasingly likely to flood? When building stormwater infrastructure, what

58. Gail Markle, *Understanding Pro-Environmental Behavior in the US: Insights from Grid-Group Cultural Theory and Cognitive Sociology*, No. 532, 11 SUSTAINABILITY 1, 2 (2019) (describing individualistic culture and arguing that hierarchy ideals and individualism ideals are incompatible).

59. Kahan 2007, *supra* note 53, at 469.

60. McCright & Dunlap, *supra* note 47, at 1165. See also Irina Feygina, John T. Jost, & Rachel E. Goldsmith, *System Justification, the Denial of Global Warming and the Possibility of System-Sanctioned Change*, 36 PERSONALITY AND SOC. PSYCHOL. BULL. 326 (2009) (claiming that those who have a greater stake in the status quo are more likely to explain away or diminish threats to that order).

61. Chris Swanston et al., *Midwest*, in 2 FOURTH NATIONAL CLIMATE ASSESSMENT 872, 900-901 (U.S. Glob. Change Research Program ed., 2018).

diameter should the pipes be if the project is to remain in use for the next seventy years?

Answering these questions correctly involves looking at projections made by climate scientists. If the cultural cognition theorists are right, some of the people making those decisions—perhaps even those most likely to have the power to make decisions—are those least inclined to take climate-change matters seriously. While persuasion is a lawyer's stock in trade, I'm still learning to communicate environmental values in a way my audience will hear.

Finally, cultural cognition theory provides a cautionary tale for all of us. It is not only cool dudes who hold cherished cultural worldviews and look with suspicion on strangers with bad news. We all do. And this is the question we all need to ask ourselves: What are we missing?